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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/060,718	01/30/2002	Frederick A. Vero	1803-12	8196

7590

11/07/2003

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EXAMINER

LINDSEY, RODNEY M

ART UNIT

PAPER NUMBER

3765

DATE MAILED: 11/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/060,718

Applicant(s)

VERO ET AL.

Examiner

Rodney M. Lindsey

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. In light of the discovery of new prior art the following action is made. It is regretted that such art was not earlier discovered.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 3 the limitation of "said fabric" is confusing as to which prior recited "fabric" is being referenced, the "performance fabric" or the "base fabric". In claims 2-10, line 1 the "textile fabric" has no antecedent basis.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrews et al. in view of Weil.

Note in Andrews et al. the base fabric as at 100a and the dissimilar fiber 100b. Product-by-process claims 1 and 11 although reciting structure in terms of how it is made (a computer controlled manipulating step) are still product claims, and it is patentability of the structure of the

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product which must be determined and not the process step. Andrews et al. do not teach chain stitching as claimed. Weil teaches old and well known in a seamless fabric the use of chain stitching (see column 4, lines 29-43). It would have been obvious to one of ordinary skill in the art at the time of the invention to knit the glove of Andrews et al. of chain stitching since chain stitching is shown by Weil to be one form of stitching compatible with seamless formation of fabrics.

6. Claims 2, 4-6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrews et al. in view of Weil as applied to claim 1 above, and further in view of Kuehnel. Kuehnel teaches old the use of cotton or wool in a glove inherently of a tensile modulus of elasticity as claimed. It would have been obvious to form the base fabric of Andrews et al. of the cotton and wool of Kuehnel to achieve a durable glove capable of withstanding hard usage (see page 1, column 1, line 7 of Kuehnel). With respect to claim 6 note the use of polyester in Andrews et al. (see claim 11, thereof). With respect to claim 10 note the islands at 100a or 100b of Andrews et al.

7. Claims 3 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrews et al. in view of Weil as applied to claim 1 above, and further in view of Sullivan. Sullivan teaches old the use of high performance fibers of a tensile modulus of elasticity as claimed (see column 3, line 67). It would have been obvious to provide the glove of Andrews with the high performance fibers of Sullivan to achieve the like result of protecting the hand against injury. With respect to claims 7 and 8 note the inorganic fiberglass fibers of Andrews et al. With respect to claims 7 and 9 note the use of aramid fibers in Andrews et al.

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8. Claims 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrews et al. in view of Weil and Inoue et al.

Andrews et al. shows manipulating a base fabric as at 100A and manipulating a dissimilar fabric as at 100B. Weil teaches old and well known in a seamless fabric the use of chain stitching (see column 4, lines 29-43). Inoue et al. teaches old the use of a computer to selectively manipulate different fabric (see for instance column 17, lines 47-51). It would have been obvious to one of ordinary skill in the art at the time of the invention to knit/sew the glove of Andrews et al. of chain stitching since chain stitching is shown by Weil to be one form of stitching compatible with seamless formation of fabrics. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the method shown by Andrews et al. with the computer of the method taught by Inoue et al. to achieve the advantage of automatically manipulating the dissimilar fabric. With respect to claim 13 note the chain-stitching manner taught by Weil. With respect to claim 14 note the step of knitting as disclosed by Andrews et al. With respect to claims 15 and 16 note the glove of Andrews et al.

***Response to Arguments***

9. Applicant's arguments filed October 24, 2003 have been fully considered but they are not persuasive. Contrary to applicant's remarks the fabric of Andrews et al. is a unilayer fabric as claimed exhibiting islands 101a, 101b of different fibers. Applicant's further arguments are deemed moot in view of the new grounds of rejection.

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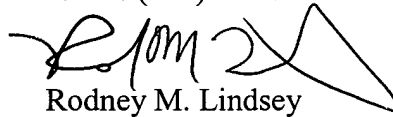
***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note particularly the chain stitching with the glove of Davis and with the items of Takeshita et al. and Japanese patent to Takeshita et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney M. Lindsey whose telephone number is (703) 305-7818. The examiner can normally be reached on M-F (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 872-9301.

  
Rodney M. Lindsey  
Primary Examiner  
Art Unit 3765

rml